THE COPYRIGHT REGULATION AMENDMENT BILL.

Mr. Subba Aiyar presented the report of the Select Committee on the Copyright Regulation Amendment Bill, and moved that the report and the Bill be taken up for consideration at once.

Seconded by Mr. Rengaswami Aiyengar.

Carried.

Section 4.

Mr. Velu Pillai, in moving that Clause (*a*) of sub-section (2) of Section 4, *i. e.*, the words "to produce, re-produce, perform or publish any translation of the work", be deleted, spoke as follows :—

"Sir,

I beg leave to propose an amendment to the Bill now under consideration on a matter which has not been referred to by Mr. Subba Aiyar. My amendment is that Clause (*a*) of sub-section (2) of Section 4 be omitted as its retention will greatly prejudice the growth and development of the Malayalam language and literature. It is maintained by both educationists and statesmen of high repute that the mass of our population can be reached only through the medium of the Vernaculars. The enrichment of the Malayalam language is a matter of paramount importance, and for a long time to come, our literature will require to be supplemented by books translated from other languages which are in a more favoured position. The history of the Malayalam literature unfolds the abiding faith of our illustrious masters of old in the necessity of translations. The treasures of ancient Hindu civilisation preserved in two great languages, Sanskrit and Tamil, were made accessible to us by a succession of patriotic men among whom some of our own Maha Rajahs are shining examples. When after the happy alliance of Travancore with the British Government the literature of the west was brought within our reach, the foremost scholars of the day laid under contribution the thought and culture of the west and devoted their energies to the advancement of our mother tongue. Several magnificent works have been rendered into Malayalam by the assiduous labour of these patriotic men. But these are pebbles on the seashore while the great ocean of knowledge extends before us.

The growth of Malayalam literature depends in a great measure on the facilities afforded to translation. Indigenous works of art and literature are the products of certain political and social conditions. The age of Pericles, Augustus and Elizabeth in the west and that of Vikramaditya and Harshavardhana in India synchronise with a general upheaval in the respective countries consequent on changes in their political and social environments. Literature is but the expression of the life that permeates society. We in Travancore look upon ourselves as a particularly fortunate class of people secure in the enjoyment of the gifts that a kind nature has lavished upon us protected by Our Royal family under the ægis of the Paramount Power. Whether in politics or law, medicine or engineering, arts or literature, we have only to accept the results of experiments performed elsewhere by others in a position of vantage. There is thus little scope among us for reflection and very little necessity for it either. We have not much faith in our mission of civilizing the world and our poets and philosophers therefore lack the stimulus of inspiration. We have therefore to look up to English for inspiration and guidance.

A state of affairs like the one I have described above is not congenial to the growth of indigenous literature. This explains the absence of original works of any great magnitude in Malayalam. Nor is the absence of a wide intellectual outlook and the want of opportunity the only reason for the paucity of good original works in Malayalam in any department of knowledge. The best intellect of the country is now dedicated to the study of western languages and science and the acquisition of western culture. The aristocracy of learning obtain their aliment from English literature or from the classical languages of India. The ambitious man seeks a University course which secures to him a good career. This is no doubt a commendable frame of mind, but I am here concerned only with the operation of these causes on the growth of Malayalam literature. In Travancore, English is the language of official communications, arguments in Courts of Justice, of friendly correspondence and the medium of obtaining information as to what happens without the narrow limits of our State. It is curious to note that the titles of Malayalam books are always printed in English characters in all manner of fantastic designs. The Government themselves have placed all Malayalam Schools whatever be their grade in the category of Elementary Schools without enquiring into the character of the curricula followed in those institutions. And what is the result? To the ordinary man in the country, nature is a sealed book. The obstinate questionings of science have not overpowered our minds. History is conspicuous by its absence. The common ideas about animal and vegetable life and even those of the circulation of blood in the human body are foreign to him. In a word the Malayalam literature of the present day—a literature of which I am no less proud than any living man—consists of a fair collection of good poetry, a few fragments of fictional prose with occasional sparks of science. Prose is still in its swaddling clothes looking forward to the welcome approach of manhood. Malayalam novels can be counted at one's finger's ends and even those few are written by people with high University education, who have freely indented upon the genius of Sir Walter Scott and the Earl of Beaconsfield though their own talents are of a very high order. From a careful observation of the course of the development of Malayalam literature during the last century, I am led to point out that most of our books published during the period

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were translations or adaptations of books in other languages. Travancore is not a self-sufficing entity and Malayalam cannot obtain its salvation without the help of other languages. We have to borrow ideas and we have to borrow words. Translation implies a desire for imitation and imitation presupposes the acknowledgment of superiority. The prohibition of translation would mean a prohibition of admiration towards a good model and would entail a severe loss to our literature which is only growing up.

I do not mean to say that the rights of individual property in books should not be respected in Travancore. The man of genius cannot forego the profits of his creative faculties. All that I say is that he must not be given the power of closing the doors of knowledge on those who are not acquainted with the language in which it is written. I am not basing my arguments on any kind of speculation. I am supported by judicial opinions expressed by some of the greatest Judges in England and India. I may be permitted to cite two decisions of the British Indian High Courts which deal with the question whether a translation is an infringement of copyright. They are 14 Bombay 587, and 19 Bombay 557. Justice Farren who wrote the judgment in the latter case has reviewed a large number of English decisions supported by the authority of eminent English Judges like Lord Mansfield and Lord Eldon. Their reasoning is to the effect that the production of copies is a mechanical act as distinguished from translations which are new works, the result of skill and intelligence. The readers to whom a translation is addressed are different, forming a class to which the originals are as completely sealed as if they had not been written. As observed by Bruce V. C., a work lawfully published in the popular sense of the term stands in that respect differently from a book which has never been in this situation. The former may be liable to be *translated, abridged, analysed, exhibited, complemented* and otherwise treated in a manner that the latter is not.

In the matter of copyright, the legislature has always kept the interests of the public before it. The right of translation was not reserved to the author by the Common Law of England. Copyright had its origin in England in the Statute 8. Anne C. 19. The law was amplified by many later Statutes. It is important to note that nothing in those Acts was to be construed to prevent the printing, publication or sale of any translation. I do not propose to trace the history of the law of copyright before this Council. All that I want to show is that the exclusive right of translation reserved in the author is one of new growth not sanctioned by the Common Law or the older legislative enactments. In this connection, I may be permitted to quote a passage from Halsbury's authoritative book, 'The Laws of England'. 'Copyright is in the written form of expression. It has reference to some literary composition and does not extend to ideas or schemes or systems or methods. It has nothing to do with the originality or literary merits of the author. There is no copyright in an opinion, but if it is in writing, there may be copyright in the form and language in which it is expressed'. Hollinruke V. Truswell, Walker V. Lane and Chilton V. Progress Printing and Publishing Company, are referred to by the learned author. In India an unauthorised translation of a literary work was never regarded as an infringement of the author's rights. The very fact that the best products of genius in the field of Sanskrit literature were translated in all the Vernaculars of India clearly shows that translation did not offend against the law or the positive morality prevailing in the land. Plagiarism was a different matter but the freedom of translation appears to have all along been recognised. The present Bill has been introduced into this Council in order that the law may be brought into conformity with modern requirements. If the Imperial Government insist on our following this rule of law promulgated by the British Indian Legislature, the considerations that should weigh with this Council are different. But fortunately for us there is no such thing. We have thus to stand by our laws and usages so far as it is possible, and effect changes only if they are proved to be absolutely necessary. It is in this connection that I have to revert to the condition of Vernacular literature. We hear so much at the present day about the development of the Vernaculars and even the suggestion of a new Vernacular University appears to have been encouraged by several responsible men in this country. Opinion on this question may not be unanimous, but I am sure that the consensus of educated opinion in the land is that the development of Vernacular education is urgently called for. The point has been already discussed by some of our leading officials and public men and their views have been more than once endorsed by the Head of the Administration."

President.—"The other day, while presiding over the celebration of the Vernacular Golden Jubilee, I said something about the suggestion for the establishment of a University. What I meant was a University in which Vernaculars may also be taught and not a University which is solely devoted to the spread of Vernacular education".

Mr. Velu Pillai.—"It is in that light that I have understood the speeches. The Dewan in the course of an excellent speech delivered on the occasion of the Vernacular Jubilee celebration struck a wise and patriotic note when he said that the Malayalam literature had to be enriched by useful translations. I ask: Is there any chance of our reaching the goal if translation is to be declared by the legislature to be an infringement of right punished by the Civil and Criminal laws? The motive to serve the cause of literature is weak enough even now. The gains of learning are quite inconsiderable in our country. No man is able to live by his pen. There is no reading public and the few that want to read are neither able nor over-anxious to pay for the privilege. Conditions like this are not calculated to foster literary activity. If at such a juncture the new law of copyright is engrafted in our statute book the result will be disastrous.

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The sword of criminal prosecution will hang above the head of the aspiring author and make him pause. Vernacular scientific literature will be eternally banished from our country, and the atmosphere will become surcharged with the forces of stagnation terminating in the decay and ruin of Malayalam literature. It is something like a country with infant industries entering into competition with other countries the industries of which have attained to a substantial position. A league with the countries of the world in a matter like this will be the story of the dwarf and the giant repeated once again.

Let us now enquire what advantage will be gained by other countries by prohibiting translation in Travancore. An English book is not likely to be translated into French or German in our State for the obvious reason that there will be no purchasers. International unity between the great nations will not therefore be prejudiced in any manner if copyright in translations is not protected by our Courts. The only case that has anything like probability is the translation of an English book into Malayalam or Tamil. If, as a matter of absolute principle flowing from the international convention, the right of free translation be curtailed, the author or publisher gets no corresponding advantage. His market is not affected by the change, for, people who can understand English will not as a rule patronise the translation. Thus the service that the law will be able to do is of a negative kind. Practically the only right the law will be able to preserve for him is the satisfaction of being in a position to refuse a request. In the case of English books written by natives of the country there is another justification in not recognising the exclusive right of translation in the author. English Schools and Colleges are maintained in Travancore at an enormous cost on the part of Government. It is not proper for a Graduate who has profited by the money of the tax-payers to refuse the right of free translation. It may be asked, why not the author or his publisher be paid some kind of remuneration for his permission? The answer is simple. It is here that the law of demand and supply is found to come into operation. Authors seldom get even the cost of printing from the sale of books. Bhashasakuntalam and Martandavarma and Indulekha have not been successful from the commercial point of view. If in addition to the difficulties of the situation the author or publisher should be given any sums of money, it will act like a mill-stone tied round the neck of the intending author and choke the springs of his enthusiasm. Such a step would spell the ruin of our literature and retard the cause of education for ever.

I am comforted by one circumstance in making the plea for the omission of the Clause from the proposed Regulation. The Government have already made an exemption from the rules of international agreement in the case of architectural works of art. If I remember correct, it was the Chief Secretary himself that proposed the amendment. This makes it quite clear that there are no political reasons which prevent us in making certain exemptions. The whole thing is one of necessity and expediency. Sir Harcourt Butler, who introduced the Indian Copyright Bill in the Imperial Legislative Council, was himself in favour of permitting translation after a period of 5 years from the date of publication. I cannot see why the period should be made 10 years in Travancore when the conditions require that no such restrictions should be placed on the production of literary works ".

Seconded by Mr. Sesha Aiyar.

Mr. Subba Aiyar.—" It should not be taken that, on behalf of the Government, I oppose the amendment. But I wish to bring to the notice of the Council certain matters deserving of consideration before finally deciding whether the amendment can be allowed or not. It is not the object of the Government in introducing the Bill to prohibit translation of works published outside Travancore. The Regulation will apply to publications in Travancore, because unless there is an international arrangement between this State and another State that the Copyright Regulation of this State will be respected by that other State, there is no binding obligation on the part of Travancore to recognise publications outside Travancore. The Section, as it stands, says that if anybody publishes any book in Travancore, the right of translation is restricted, so far as that work is concerned. In publishing a book the author spends a good deal of labour upon it and also money, and, in order to encourage such authors, it is necessary that nobody should interfere with the labour bestowed by the author. It is with reference to this that the present provision is introduced. Suppose, as soon as a Sanskrit book is published in Travancore it is immediately translated in Malayalam, the Sanskrit book will not find a sale at all in Travancore as the public will go in for the Malayalam translation. It is with reference to this view that the British Government adopted a modification so far as the English Act is concerned. The object of the Section is to encourage the authors and it is as much the duty of Government as it is theirs to safeguard the interest of the public. My friend referred to various decisions on the question of translation. But after the International Convention at Berlin it was finally adopted by England in 1911 that the right of translation should be restricted. The English Act was passed subsequent to the decisions quoted by my friend. These decisions cannot therefore be of much use for our present purpose and cannot override the Act. According to the English Act, copyright extends not only to the lifetime of the author but also 50 years after the death of the author, and this is the rule in many European countries. But when the British Indian Government was asked to pass an Act in accordance with the English Act with necessary amendments with reference to procedure and such other details, they thought that in the interests of India the term of copyright with reference to translation should be curtailed as the dissemination of knowledge among the masses is effected through the Vernaculars. And this is what Sir H. Butler in introducing

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the Bill says :—'We propose a material relaxation with regard to translation. This is in our opinion necessary in view of the special linguistic consideration of India, of the variety of languages spoken and of the useful part played by translation in disseminating knowledge. By this means we hope adequately to safeguard the rights of authors and those of the public'. By curtailing the right of translation to ten years the rights of the authors and those of the public are safeguarded. If the suggestions of my friend are adopted, the rights of the public are safeguarded but the rights of the authors are entirely ignored. But so far as the rights of the authors are concerned, I beg to state that in the words of a learned author 'nothing can with greater propriety be called a man's property than the fruits of his brains. The property in any article or substance accruing to him by reason of his mechanical labour is never denied him. The labour of his mind is no less arduous and consequently no less worthy of the protection'.

My friend says that Malayalam literature will suffer if this Clause is allowed to stand. I doubt if it will be so, because the right of translation is restricted only to ten years. I think that the Malayalam literature could be sufficiently enriched by translations of works ten years after their publication. If any translation is required of a book published within ten years, then the only way is to get the permission of the author on payment of some compensation. In these circumstances, I don't think that the public will lose much if the right of translation is prohibited for ten years. With these observations I personally think that the amendment could not be allowed."

Mr. Mahadeva Aiyar said that he agreed in the opinion expressed by Mr. Subba Aiyar that the interests of the authors required protection, but that whether the term of ten years was too much was only a matter of detail.

Mr. Raman Pillai was of opinion that the interests of the author required protection, but that the term might be reduced to five years.

Messrs. Vieyra and Subrahmanya Aiyar also were of opinion that the authors' interests required some sort of protection.

Mr. Rengaswami Iyengar.—"Mr. Velu Pillai's arguments amount to two things: advocacy of literary *communism* and of literary *protectionism*. The validity of his proposal will, therefore, chiefly depend on the principles which would justify or condemn communism and protectionism generally. And I would ask, how far are these principles consistent with the very recognition of *Copyright*—which is a *monopoly* to which the State attaches some restrictions ?

The specific arguments which Mr. Velu Pillai has urged in favour of his amendment have also not been able to convince me. To begin with, he has contended that it is necessary in the interests of Travancore, that *cheap translations* should be made available by dropping out of the copyright law any protection of the right of translation. Why should not the identical argument apply to *original* works also, as to translations ? If, in a conflict of 'public interest' and copyright, the latter is to give way as regards *translations* so as to ensure for our people *cheap* translations, why should not the entire principle of copyright be rejected on the ground that the need for cheapening of literature calls for it ? To say that original works must be protected, and to say almost in the same breath that translations should be allowed freely, is to take up an inconsistent, an untenable position. As a matter of fact, the only consistent position is that which has been taken in England and elsewhere. I can also understand the contention that no sort of protection such as is contemplated by the law of copyright is at all necessary, and that the very conception of copyright is open to objection, if it is held at the same time that you should *not* recognize a right of property in *immaterial* things as in *material* things. The alteration in copyright law proposed by Mr. Velu Pillai is practically equivalent to an illogical confiscation of *part* of a man's rights, granting the essential underlying principle of copyright, *viz*, that a man has a right of property in his own ideas, in the products, so to speak, of his mind.

I frankly cannot understand the acceptance of the principle of copyright when coupled with the denial of the right of translation, which is so necessary to effectuate the protection given to the original work by the copyright law. A type of literary copyright which protects the original from unauthorised reproduction but allows *free* translation of it is to my mind like bestowing copyright on a work of art and at the same time depriving the owner of the right of controlling reproduction or copying.

Some of the instances and illustrations suggested by Mr. Velu Pillai are not happy or convincing. In advocating freedom for translation, he cited, for instance, the extreme case of an author who might adopt 'a dog in the manger policy' and prevent the translation of his work, by withholding his permission altogether, and thereby deprive the great section of the public, which does not understand the language of the original, from profiting from his ideas. Mr. Subba Aiyar has very pertinently pointed out that the proposed law protects the right of translation only for a brief term of years, and that there is in it no provision which would enable an author to create such an *absolute* stoppage of translation, as has been suggested as possible, if the Bill is accepted *unamended*. Again, if we may say that an author should be restrained, in the public interest, from imposing a bar on the wide dissemination of his ideas by translation, should not a similar arrangement be provided in the law to prevent an author from refusing to authorise the issue of reprints or new editions ? And yet no such proposal has ever been made seriously in the name of public interest.

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I have often, for instance, had great difficulty in securing copies of a number of interesting and valuable works, which, for one reason or another, the authors would not reprint. Have I here a grievance against the law, under which, this condition is possible? I have known cases in which an author has desired to suppress an earlier work altogether, because its views had ceased to be held by him, or to supersede such a work by a greatly improved edition. For instance, the great Economist, Dr. Marshall, published many years ago a small book which was acclaimed, on publication, as one of the best little books in economic literature. Notwithstanding this, Dr. Marshall found the necessity later on, when his views had altered markedly and he did not wish his earlier opinions still to gain currency, to prohibit the further sale of the book. Either he or the publishers had apparently bought up all unsold or available copies, with the result that for years I searched the lists of secondhand booksellers in vain for an offer of a copy. And, I have always remembered gratefully an old student who once gave me a copy of this rare book as a sort of *Gurudakshina*. In this case supposing that a printer obtains a copy of this work, while its term of copyright is still on; has he even a *moral* right to reprint the book, against the express wishes of the author, because there are people who want it? Concede that the action of the printer in issuing a reprint would be wrong altogether, and suppose that the law allows of *free* translations without the author's permission or even knowledge. And, suppose an isolated copy of this book falls into the hands of a translator. Will he not have then the facility in law to produce and circulate, as a *translation*, a work, the circulation of which has been restrained, in the *original*, in deference to the author's proper wishes and in accordance with the protection given by copyright law to original works? In such cases, if the proposal of Mr. Velu Pillai is accepted by the Council, it will merely come to this: namely, that we may have circulating side by side an author's maturer views, and the earlier opinions contained in the superseded original of the translation, which may be a distortion of the views he desires to be known as his. I ask whether this should be tolerated.

Again, leaving aside the very questionable propriety of holding that an idea which is once disseminated in a book is an idea thenceforth available *free* to every one, I would raise another question: how is an author to guard his work against gross *mis*-translations, unless there is a provision in copyright law allowing him to control translation? An unauthorized translation, which is badly made, may not only do great injustice to an author by its errors, but may spoil the market, so to speak, for a further and better translation, which the author sanctions, by getting earlier into the field. It *may* even spoil the sales of the original work. Hence, it has to be seen that the right of controlling translation has to be viewed not only as intended to give the author some pecuniary gain, but as giving some protection against hasty and promiscuous translations and mistranslations. Surely, a person who is entitled to a right of property is not only entitled to enjoyment of the right, but unvitiated enjoyment of it. If I write a book, it is assuredly more to my interest—and to the interests of the public—that it should be correctly translated by a person, whose competency for the work has my approval, than that it should be liable to translation by the first person—competent or incompetent—who feels an inclination to publish a rendering, without so much as showing me even the courtesy implied in asking my sanction for his undertaking. As against the plea that the right of translation, if conferred on authors, would raise the prices of Vernacular books by a good deal, I would merely say, as a piece of experience, that authors often get precious little for the grant of the permission beyond the advertisement implied in the wider circulation.

Next, as regards the alleged difference *in esse* between an original and a translation, urged by Mr. Velu Pillai as a ground for refusing to the latter the protection granted to the former, I would venture to point out that the value of a book depends in the majority of cases much more upon the *ideas* it contains than on the literary *expression* of such ideas. The prominent exception to this may be found in the case of *pure* literature—such as poetry, where, conceivably, as expression is even more valuable than an idea—a translation *may* often be a decided improvement on the original. But it is clear, from Mr. Velu Pillai's speech, that he is thinking rather of scientific than of merely literary works, as required to enrich our Vernacular literatures and to help the spread of knowledge among the people. I submit that in *such* cases the *idea* is the principal thing, and that the protection which the law confers ought to relate to it rather than to the expression of it. Unless the right of translation is granted, the property in such *ideas* will be purely nominal and illusory. Again, as I have urged, it is necessary for an author to see that he is interpreted *correctly*. If any one asks me for permission to translate a technical work I may have written, I would think twice before I gave permission, and even that will be only after seeing that the would-be-translator has an equal and adequate knowledge of the languages and of the subject-matter, and possesses the capacity required to effect a correct and readable rendering. The line of Mr. Velu Pillai's argument only makes the case for the authors *more* obvious, for he pleads for *absolute* freedom to undertake irresponsible translations. Personally, I do not think that anything is going to be lost by showing some courtesy to the man who has taken the trouble to compose a work, and by providing some further encouragement to originality by allowing some protection for translation.

It has been argued that the Government of India have agreed to limit the term of the right of translation to *ten* years, and that originally they were prepared to limit it even to *five* years. I frankly do not consider the position of the India Government either consistent or equitable. I realize, of course, the greater degree of pressure that must have borne upon the Government of India—as compared with us—as they have to deal with about 300 millions of people using

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the Vernaculars. But, if the Government of India perhaps yielded to agitation, on this particular issue, I do not see that we are precluded from taking up a more logical position. But for the need of substantial uniformity in our copyright law and in that of the Government of India, in order to secure reciprocity, I would not accept even the ten-year term, but would urge the Council to place the protection for translations on the *same* basis as that for original works, and for an *equal* period.

Much stress has been laid on the need to have a sufficient number of suitable text-books in the Vernacular, on such subjects as History, Geography, Natural Science, etc., and, it has been stated that these books must come from translation. The argument appears to me to be not very strong, for, ordinarily, a person who is competent enough to make a good translation of a scientific work would possess sufficient knowledge of the subject-matter and sufficient skill in the Vernacular to be able to produce a useful Vernacular compilation on the subject, and such a work will be protected as an "original" work. Further, I saw that Mr. Velu Pillai was very keen on encouraging originality or anything approaching it, in our Vernacular literatures. If this is to be realised, surely the best way of ensuring the result would be to protect *translations*, not for the short period of ten years but for ever.

I have to stress, before concluding, one other point against the amendment, which has just been urged by Mr. Subba Aiyar. It is this. How are we to claim protection for our works outside Travancore—if we are not prepared to grant reciprocal rights—as for instance for ten years in translations—within the State for foreign works? This point appears to me to be so important that in view of it, I have already declared my readiness to accept the Government of India restriction of copyright in translations for *ten* years instead of fifty, notwithstanding my strong feeling against any differential treatment of original works and translations.

On these grounds, Sir, I would emphatically protest against the proposed amendment and recommend its rejection".

Messrs. Kuriyan and Daniel also expressed themselves against the amendment.

Mr. Kumara Pillai was for the amendment. He said that the provision was not desirable in the interests of the public.

Mr. Parameswaran Pillai was of opinion that, if the prohibition contemplated by the Clause applied only to works published in Travancore, there was no objection to retaining it, but that, if it also extended to works published in foreign countries, he would support Mr. Velu Pillai's motion to delete it, in view to facilitate the dissemination of knowledge.

Mr. Velu Pillai replied.—"With regard to the question of reciprocity, what I have to say is that we don't want it. Let our books be translated and let people of other countries be profited by the wealth of our ideas. We are only glad of it.

It is said that books in Sanskrit if translated into Malayalam and other languages will not give any gain to the authors. I say that it is not correct, because Sanskrit books will be read by Sanskrit students and Sanskrit scholars all over the country, while Malayalam and Tamil translations will be read only by Malayalees and Tamilians. So, that argument does not stand. Regarding the observation of Mr. Rengaswami Aiyengar, I have to say that his arguments also do not carry conviction to me. He referred to promiscuity of translations, changing ideas of the author, and so forth, and said that it is not against public policy to prohibit the translation of a good book. Even as it is there is only the prevention of translations for a particular period. Even if a time limit is prescribed it will not do any good with regard to the equal understanding as well as the originality of the authors. Of course a certain amount of understanding is necessary for the translation. There cannot be equality. Every translator of Shakespeare cannot be a genius. There is one other aspect of his argument that requires an answer. He says that when the Bill was introduced in the Imperial Legislative Council, the Government were yielding to popular agitation. I may say that it is not so. The Non-officials did not appear to have objected, and the Government themselves suggested the five years period. Surely the Government were not playing to agitations. I must say that the arguments regarding communism cannot hold good in literary matters. I think the right of free translation is necessary in the interests of Malayalam literature. Some of my friends on the other side have appreciated my arguments and said that they are for a shorter time limit. That means the recognition of the principle which I am advocating. If they want five years instead of ten years, that shows that the principle of free translation is good. It is only the question of expediency that has to be considered, and since the principle is accepted and a lower time limit is suggested, we may as well drop it altogether. The strongest argument used is the uniformity of law in different countries. Now if we think there is no folly in bringing down the time limit, then I say, that the time limit may be dropped altogether. I hold that free translation may be recognised and that the interests of the author will not therefore be jeopardised. If the author wants to translate his own book, he can be first in the field if he can get a competent person to translate it. This in fact is one of the views held by the judges in the judgments in the cases cited by me. Mr. Subba Aiyar said that the decisions quoted by me were under the older Act—I do concede it. I never pretended that the legislature should be over-ridden by decided cases. The reasoning contained in the decisions holds good even today. I have to remind the Council that under the older Regulation, no body's rights were prejudiced."

Mr. Velu Pillai's motion was put to the vote and lost by a majority.

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Section 6—Sub-section (2.)

Mr. Subba Aiyar said that it would be better if sub-section (2) of Section 6, which dealt with the modification of copyright as regards translations of works, be transferred to Part 5 of the same Chapter relating to "special provisions as to certain works". He accordingly moved that the sub-section be inserted as an independent Section 18, and that the subsequent Sections be re-numbered.

Seconded by Mr. Mahadeva Aiyar.

Carried.

Mr. Subba Aiyer pointed out that in the case of works published in foreign countries it would be necessary to protect such works, provided such foreign countries undertook to afford reciprocal protection to the works published in Travancore. He quoted instances where books published in Travancore had been made authoritative in British India and had been made text-books in schools and colleges there. Mr. Subba Aiyar therefore moved that the following Section be added as Chapter IV of the Bill :—

"(1) Our Government may, by a Notification, direct that this Regulation (except such parts, if any, thereof as may be specified in the Notification) shall apply—

(*a*) to works first published in a foreign country to which the Notification relates in like manner as if they were first published within Travancore ;

(*b*) to literary, dramatic, musical, and artistic works, or any class thereof, the authors whereof were at the time of the making of the works subjects or citizens of a foreign country to which the Notification relates, in like manner as if the authors were Travancore subjects ;

(*c*) in respect of residence in a foreign country to which the Notification relates, in like manner as if such residence were residence in Travancore ;

and thereupon, subject to the provisions of this Section and of the Notification, this Regulation shall apply accordingly :

Provided that—

(*i*) before making the Notification under this Section in respect of a foreign country, Our Government shall be satisfied that that foreign country has made, or has undertaken to make, such provisions, if any, as it appears to Our Government expedient to require for the protection of works entitled to copyright under the provisions of Chapter II of this Regulation ;

(*ii*) the Notification may provide that the term of copyright within Travancore shall not exceed that conferred by the law of the country to which the Notification relates;

(*iii*) the provisions of this Regulation as to the delivery of copies of books shall not apply to works first published in such country, except so far as is provided by the Notification ;

(*iv*) the Notification may provide that the enjoyment of the rights conferred by this Regulation shall be subject to the accomplishment of such conditions and formalities (if any) as may be prescribed by the Notification ;

(*v*) in applying the provisions of this Regulation as to ownership of copyright, the Notification may make such modifications as appear necessary, having regard to the law of the foreign country.

(2) A Notification under this Section may extend to the several countries named or described therein.

(3) Our Government may, by a Notification, alter, revoke or vary any Notification under this Section, but such Notification shall not affect prejudicially any right or interest acquired or accrued at the date when the Notification comes into operation and shall provide for the protection of such right and interest.

(4) Every Notification made under this section shall be published in Our Government Gazette and shall have effect as if enacted in this Regulation".

Mr. Sesha Aiyar was of opinion that, instead of putting in the Section as a separate Chapter, it would be better to add the Section in the last Chapter entitled "Supplemental provisions". Mr. Sesha Aiyar accordingly moved that the proposed Section be inserted as Section 33 at the end of Chapter IV.

Seconded by Mr. Vieyra.

Carried.

The Schedule.

Mr. Raman Pillai said that it would be dangerous to repeal Clause (*a*) of Section 17 of the Sea Customs Regulation, as that Regulation was particularly intended for the guidance of the Customs officers and as the Clause referred to related to only one out of the many articles the importation of which was prohibited. He was of opinion that the repeal of the Clause would mislead the Customs officers, as they might not naturally refer to the provisions of the Copyright Regulation to prevent the importation of works prohibited by that Regulation, while the

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retention of the provision in the Sea Customs Regulation might at the most be only a superfluity. Mr. Raman Pillai therefore moved that the provision in the Schedule relating to the repeal of Clause (*a*) of Section 17 of the Sea Customs Regulation be deleted.

Seconded by Mr. Vieyra.

Carried.

The consideration of the Bill being over, Mr. Subba Aiyar moved that the same, as settled by the Council, be read again on a future day of which notice should be given.

Seconded by Mr. Rengaswami Aiyengar.

Carried.

THE WEIGHTS AND MEASURES REGULATION AMENDMENT BILL.

Mr. Subba Aiyar presented the report of the Select Committee on the Weights and Measures Regulation Amendment Bill, and moved that the report and the Bill be taken up for consideration.

Seconded by Mr. Mahadeva Aiyar.

Carried.

The Bill having been approved by the Council, Mr. Subba Aiyar moved that the Bill be read again on a future day of which notice should be given.

Seconded by Mr. Rengaswami Aiyengar.

Carried.

THE HINDU RELIGIOUS ENDOWMENTS REGULATION AMENDMENT BILL.

Mr. Subba Aiyar next presented the report of the Select Committee on the Hindu Religious Endowments Regulation Amendment Bill, and moved that the report and the Bill be considered by the Council.

Seconded by Mr. Mahadeva Aiyar.

Carried.

After the Bill was considered and settled by the Council, Mr. Subba Aiyar moved that the Bill be read again on a future day of which notice should be given.

Seconded by Mr. Mahadeva Aiyar.

Carried.

The Council adjourned at 3-45 P. M.

M. KRISHNAN NAIR
President.

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